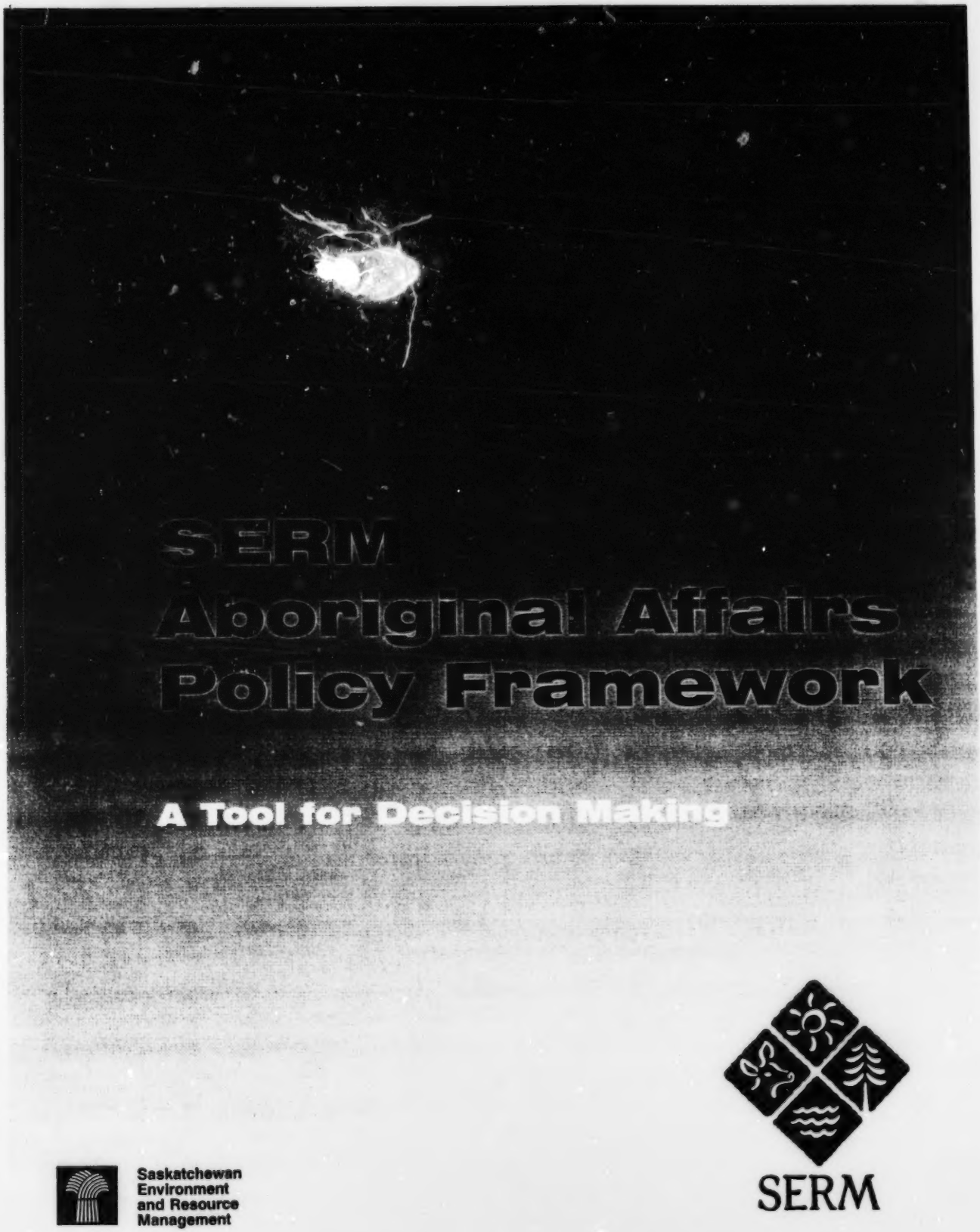

SERM Aboriginal Affairs Policy Framework

A Tool for Decision Making

Saskatchewan Environment and Resource Management

SERM

Introduction

Aboriginal society is moving forward both politically and socially. Governments at all levels have been expressing support for this movement, yet must balance the interests of all elements of society. Fundamental to the role of government are the obligations it owes to the public. Government obligations are not abstract concepts; they arise through the democratic process -- from the people and from the courts.

Government's obligations to First Nation peoples first arose with the Treaties that were made between the government of Canada, the British Crown and the Indian tribes and bands. The Treaties, which were required by the British government before settlement could proceed in Canada's west, are now constitutionally recognized and the existing rights within them protected. Rights consign obligations to government. The obligations must be taken seriously; in many cases they have priority over the interests of the general population.

Government's obligations to Métis people and Non-status Indians will continue to evolve through court decisions which will guide government in meeting its legal obligations. Although recognized in the *Constitution Act, 1982*, Métis and Non-status Indian rights may be treated differently in each province, depending upon the latest court decision. In Saskatchewan, northern Métis people who live a traditional lifestyle have the right to hunt and fish for food.

In addition, government commits to moral obligations through its promises, policies and programs. The Government of Saskatchewan's *Aboriginal Policy Framework* provides a vision that states:

> *In the 21st Century, Saskatchewan will be a community in which all cultural groups achieve social equity and live together in harmony, and in which Indian and Métis people are able to experience and develop their own distinctive cultures, and participate as full partners in the processes and benefits of social and economic development.*

SERM has articulated its commitment to work harmoniously with Aboriginal people in one of its *Strategic Goals and Objectives:* ***First Nations and Métis rights and their interests in the use of natural resources are met through cooperative means***

The purpose of a policy framework is to provide Saskatchewan Environment and Resource Management (SERM) employees with guidance respecting the obligations that SERM has to Aboriginal people within its mandate to manage the environment and resources for all Saskatchewan people. Aboriginal involvement is integral to sustainable resource management in Saskatchewan due to their traditional ties to land, wildlife, fish and Treaty and Aboriginal rights.

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Policy Statement

Achieving sustainable environment and resource management in Saskatchewan depends upon direct and meaningful involvement of Aboriginal people in environment and resource management decision-making.

SERM's Guiding Principles

Ministerial authority and departmental responsibility to protect the environment and manage renewable resources sustainably for all Saskatchewan residents.

Recognition of and respect for the legally defined rights of Aboriginal people.

Priority allocations to First Nation people and northern Métis people who live a traditional lifestyle, after conservation needs are met, in the use of fish and wildlife for food.

Respect for Aboriginal traditions, knowledge, cultures and values.

Involvement of Aboriginal peoples in department policy, program, planning and environmental assessment initiatives where appropriate.

Maximize capacity, self-reliance and self-determination of Aboriginal peoples.

Federal jurisdiction and responsibility for Aboriginal peoples, including status Indians and lands reserved for Indians, non-status Indians and Métis people.

No prejudice to current and future interpretations of Aboriginal Constitutional rights, land claims or other legal entitlements.

SERM's Policy Direction

SERM meets its legal obligations to Aboriginal people.

SERM:

Honours the Treaty Indian right to hunt, fish and trap for food.

In Saskatchewan, Treaty Indians may hunt for food in a safe manner at all times of the year provided they are hunting on unoccupied Crown lands and lands to which they have a right-of-access for the purpose of hunting. Unoccupied Crown lands are lands that have not been devoted to any specific purpose and which are not subject to any Crown disposition. Lands to which Indians have a right-of-access for the purpose of hunting include:

- Indian Reserves;
- occupied Crown lands, such as provincial parks, if non-Indians are permitted to hunt there;
- privately-owned lands that have not been visibly put to some use that is incompatible with Indian hunting; and
- privately-owned lands where the Indian hunter has had express or implied permission of the landowner to hunt upon the land.

Indian people cannot hunt in areas that are closed at all times of the year to hunting, such as game preserves.

Indians hunting within their rights may hunt safely by any method they choose, including hunting at night under natural conditions. Hunting at night with lights and hunting from a roadway or ditch were prohibited after consultation with First Nation and Métis groups (1998).

Treaty Indians may fish for food at all times of the year except in areas closed for conservation reasons. For conservation purposes, Treaty Indians require free licences to use a net when fishing for food.

Sport and commercial hunting, fishing and trapping by Aboriginal people are not Treaty rights. As well, hunting and fishing unsafely and wasting edible meat are not part of the right.

Indians from anywhere in Canada may hunt, fish and trap for food in Saskatchewan.

Recognizes northern Métis who live a traditional lifestyle have an Aboriginal right to safely hunt, fish and trap for food at anytime of the year on unoccupied Crown land.

Honours the legal obligation to consult with Aboriginal people when a SERM action will infringe upon a recognized Treaty or Aboriginal right.

An analysis of SERM's actions and any expected infringement upon a recognized or asserted Treaty or Aboriginal right must be given priority in the development and planning of policy, programs, legislation and activities.

Consultation Objective: In good faith to gather, understand and give priority to the interests and needs of the Aboriginal people effected when implementing SERM's actions while continuing to meet SERM's mandate.

Note: For detailed information on consultation, please refer to SERM's *Aboriginal Consultation Guidelines* and *Field Guidelines*.

At the local, ecoregion and provincial level appropriate to the issue, staff design and implement processes which will meet the objectives. The scope of the process is relative to the priority of the issue at hand and the level of infringement expected.

Gives Status Indians and northern Métis who live a traditional lifestyle priority in allocation of fish and game for food over commercial, recreational and other uses.

Fish and wildlife resource allocation is generally based on the following order of priority:

1. conservation
2. obligations to fulfil Treaty and Aboriginal rights
3. non-commercial (recreational) use by provincial residents
4. commercial uses

SERM's Policy Direction

Ensures that policies, programs, agreements or laws do not affect or impair Aboriginal or Treaty rights.

SERM fulfils this obligation when the rights are clear and well defined. *The Saskatchewan Interpretations Act, 1995* ensures that no Saskatchewan law affects Treaty rights.

Administers the Treaty Land Entitlement Framework Agreement in the spirit and intent of the agreement.

Canada, Saskatchewan and First Nations entered into a tripartite agreement to resolve outstanding Treaty Land claims. SERM has adopted mediation, as a means to promote discussions and work out issues between occupants of Crown land and Treaty First Nations.

Interprets the Treaties and court decisions in a manner consistent with the legal opinions of Saskatchewan Justice.

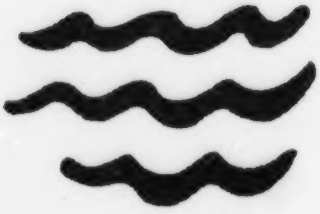
SERM's practice is to involve Aboriginal people in planning the implementation of definitive court decisions.

SERM involves Aboriginal peoples with respect to conservation, safety issues, sustainable environment and resource management policies and programs that may impact upon their cultures and relationships with the natural environment.

SERM:

At the local and regional level, involves Aboriginal peoples through means such as co-management arrangements, partnerships and direct communications with First Nations and Métis locals or communities to determine their concerns and needs and to include their input into decision-making processes.

Involves at the provincial level with the FSIN, Métis Nation - Saskatchewan (MNS) and tribal councils prior to development of legislative or major policy changes.



SERM's Policy Direction

SERM works within the current jurisdictional and legislative framework.

SERM:

Uses the parameters of the Constitution of Canada and SERM legislation as the overarching authorities for decision-making.

SERM supports broad government Aboriginal policy.

SERM:

Works toward the vision and abides by the principles of the provincial Aboriginal Policy Framework, and Métis, Northern and self-government policies.

In this respect SERM is expected to maximize equity and inclusiveness and co-operation; to recognize the unique Aboriginal culture and communities; to communicate openly and be accountable for results; to employ affordable, efficient programs and to maximize social equity and community governance.

Supports including Aboriginal perspectives, rights and involvement articulated in national policies and programs adopted by SERM.

SERM encourages and facilitates partnerships and co-management initiatives with Aboriginal groups in environmental protection, renewable resource management and departmental policy, program and plan development.

SERM:

Enters into partnership arrangements and co-management initiatives with Aboriginal groups to mutually work toward common goals, resolve issues, develop a good working relationship, and/or communicate and consult on a regular basis.

Lives up to the principles and objectives found in agreements between SERM and Aboriginal groups.

Fosters those relationships between Aboriginal groups and SERM that are productive and harmonious and strives for communication and understanding with those that are not.

SERM's Policy Direction

SERM creates a positive relationship between the department and the Aboriginal community.

SERM:

Respects the cultures and traditions of Aboriginal peoples.

Respects the Aboriginal attachment to the land when implementing SERM's mandate.

The preceding two commitments stem not from easily definable policies, but from the basic principle that social harmony and co-operation are only possible with mutual respect and understanding. Meeting them is an underlying principle in all SERM's policy and program development and delivery.

Does not refer to Aboriginal people or groups as "stakeholders".

SERM respects Aboriginal peoples' desire to not be referred to as stakeholders because of their special rights.

Values the contribution of Aboriginal traditional, local knowledge in co-management, partnership and consultation processes and integrates this knowledge with science to make integrated and informed decisions.

Encourages development proponents to involve Aboriginal and/or co-management groups on environment and resource management issues that may not directly impact upon Aboriginal rights.

SERM encourages, or may require development proponents to actively involve or consult with potentially affected Aboriginal groups about their proposals in order to determine and mitigate environmental and/or traditional land use impacts or to meet the Province's legal obligations.

Encourages employees to take Respectful Workplace and Aboriginal Cultural Awareness Training.

SERM advocates a workplace free of racial, gender and ethnic discrimination. The Aboriginal Cultural Awareness Program was developed co-operatively with Intergovernmental and Aboriginal Affairs, the Public Service Commission and the Saskatchewan Indian Federated College to create awareness within government of the diversity and richness of First Nations and Métis cultures, histories and current issues.

SERM progresses diligently towards provincial workplace diversity goals by increasing the number of Aboriginal employees in the workforce.

SERM:

Encourages its managers to hire and promote qualified people of Aboriginal descent.

Employment of Aboriginal people is important to SERM both from a workplace diversity and a sound resource management perspective.

SERM develops and promotes approaches that support Aboriginal peoples to achieve environmentally, economically and socially sustainable communities.

SERM:

Encourages and facilitates Aboriginal participation in renewable resource-based businesses, including;

Major expansion of the province's forest industry, largely in northern communities, in partnership with Aboriginal groups, industry and stakeholders across the province;
Employment and training members in forest fire management and other aspects of forest management;
Targeting Aboriginal groups and businesses when tendering contracts; and
Aboriginal involvement in outfitting and other renewable resources initiatives.

SERM develops new processes to meet the changing needs of Aboriginal involvement.

SERM:

Is open and flexible to adapt existing processes and create new processes that contribute to Aboriginal involvement in environment and resource management, within the current jurisdictional framework.

An example is the co-operative effort between SERM, the Prince Albert Grand Council, three Athabasca Dene Nations, northern communities and stakeholders to develop a land use planning and renewable resource management structure in the Athabasca region. SERM is developing a policy on enhanced decision-making by co-management groups.

SERM's Policy Direction

SERM uses a co-ordinated, integrated approach to its relationships and activities with Aboriginal people and groups.

No one branch, work unit or committee has sole responsibility for Aboriginal affairs or activities. Each SERM employee has a responsibility to undertake activities in a manner designed to yield effective, timely, positive results.

SERM employees:

Actively communicate their knowledge, experiences and information with each other directly and/or with the assistance of the Public Involvement and Aboriginal Affairs Unit of SERM.

Recognize and resolve local issues at the local level, and recognize that issues having corporate and/or provincial impact involve SERM's Public Involvement and Aboriginal Affairs staff.

Attempt to increase and share their knowledge, skills and abilities, in the Aboriginal Affairs area.

Questions and Comments

If you have any questions, comments or thoughts on SERM's Aboriginal Affairs Policy Framework, please contact Jack Kinnear, Manager, Aboriginal Affairs, Public Involvement and Aboriginal Affairs at 306-787-9643.